

(e) *Phytosanitary certificate.* Each shipment of mangoes must be accompanied by a phytosanitary certificate issued by the Republic of the Philippines Department of Agriculture that contains additional declarations stating that the mangoes were grown on the island of Guimaras and have been treated for fruit flies of the genus *Bactrocera* in accordance with paragraph (b) of this section.

(f) *Trust Fund Agreement.* Mangoes that are treated or inspected in the Philippines may be imported into the United States only if the Republic of the Philippines Department of Agriculture (RPDA) has entered into a trust fund agreement with APHIS. That agreement requires the RPDA to pay, in advance of each shipping season, all costs that APHIS estimates it will incur in providing inspection services in the Philippines during that shipping season. Those costs include administrative expenses and all salaries (including overtime and the Federal share of employee benefits), travel expenses (including per diem expenses), and other incidental expenses incurred by APHIS in performing these services. The agreement requires the RPDA to deposit a certified or cashier's check with APHIS for the amount of those costs, as estimated by APHIS. If the deposit is not sufficient to meet all costs incurred by APHIS, the agreement further requires the RPDA to deposit with APHIS a certified or cashier's check for the amount of the remaining costs, as determined by APHIS, before any more mangoes will be treated or inspected in the Philippines. After a final audit at the conclusion of each shipping season, any overpayment of funds would be returned to the RPDA or held on account until needed, at the RPDA's option.

(g) *Department not responsible for damage.* The treatment for mangoes prescribed in paragraph (b) of this section is judged from experimental tests to be safe. However, the Department assumes no responsibility for any damage sustained through or in the course of such treatment.

[66 FR 32213, June 14, 2001]

§ 319.56–2jj Administrative instructions; conditions governing the importation of clementines from Spain.

Clementines (*Citrus reticulata*) from Spain may only be imported into the United States in accordance with the regulations in this section.

(a) *Trust fund agreement.* Clementines from Spain may be imported only if the Government of Spain or its designated representative enters into a trust fund agreement with the Animal and Plant Health Inspection Service (APHIS) before each shipping season. The Government of Spain or its designated representative is required to pay in advance all estimated costs that APHIS expects to incur through its involvement in overseeing the execution of paragraphs (b) through (g) of this section. These costs will include administrative expenses incurred in conducting the services enumerated in paragraphs (b) through (g) of this section and all salaries (including overtime and the Federal share of employee benefits), travel expenses (including per diem expenses), and other incidental expenses incurred by the inspectors in performing these services. The Government of Spain or its designated representative is required to deposit a certified or cashier's check with APHIS for the amount of the costs estimated by APHIS. If the deposit is not sufficient to meet all costs incurred by APHIS, the agreement further requires the Government of Spain or its designated representative to deposit with APHIS a certified or cashier's check for the amount of the remaining costs, as determined by APHIS, before the services will be completed. After a final audit at the conclusion of each shipping season, any overpayment of funds would be returned to the Government of Spain or its designated representative or held on account until needed.

(b) *Grower registration and agreement.* Persons who produce clementines in Spain for export to the United States must:

(1) Be registered with the Government of Spain; and

(2) Enter into an agreement with the Government of Spain whereby the producer agrees to participate in and follow the Mediterranean fruit fly management program established by the Government of Spain.

(c) *Management program for Mediterranean fruit fly; monitoring.* The Government of Spain's Mediterranean fruit fly management program must be approved by APHIS, and must contain the fruit fly trapping and record-keeping requirements specified in this paragraph. The program must also provide that clementine producers must allow APHIS inspectors access to clementine production areas in order to monitor compliance with the Mediterranean fruit fly management program.

(1) *Trapping and control.* In areas where clementines are produced for export to the United States, traps must be placed in Mediterranean fruit fly host plants at least 6 weeks prior to harvest. Bait treatments using malathion, spinosad, or another pesticide that is approved by APHIS and the Government of Spain must be applied in the production areas at the rate specified by Spain's Medfly management program.

(2) *Records.* The Government of Spain or its designated representative must keep records that document the fruit fly trapping and control activities in areas that produce clementines for export to the United States. All trapping and control records kept by the Government of Spain or its designated representative must be made available to APHIS upon request.

(3) *Compliance.* If APHIS determines that an orchard is not operating in compliance with the regulations in this section, it may suspend exports of clementines from that orchard.

(d) *Phytosanitary certificate.* Clementines from Spain must be accompanied by a phytosanitary certificate stating that the fruit meets the conditions of the Government of Spain's Mediterranean fruit fly management program and applicable APHIS regulations.

(e) *Labeling.* Boxes in which clementines are packed must be labeled with a lot number that provides information to identify the orchard

where the fruit was grown and the packinghouse where the fruit was packed. The lot number must end with the letters "US." For the 2002–2003 shipping season, boxes must also be labeled with the following statement "Not for distribution in AZ, CA, FL, LA, TX, Puerto Rico, and any other U.S. Territories." All labeling must be large enough to clearly display the required information and must be located on the outside of the boxes to facilitate inspection.

(f) *Pre-treatment sampling; rates of inspection.* For each shipment of clementines intended for export to the United States, prior to cold treatment, APHIS inspectors will cut and inspect 200 fruit that are randomly selected from throughout the shipment. If inspectors find a single live Mediterranean fruit fly in any stage of development during an inspection, the entire shipment of clementines will be rejected. If a live Mediterranean fruit fly in any stage of development is found in any two lots of fruit from the same orchard during the same shipping season, that orchard will be removed from the export program for the remainder of that shipping season.

(g) *Cold treatment.* Clementines must be cold treated in accordance with the Plant Protection and Quarantine (PPQ) Treatment Manual, which is incorporated by reference at § 300.1 of this chapter. Upon arrival of clementines at a port of entry into the United States, APHIS inspectors will examine the cold treatment data for each shipment to ensure that the cold treatment was successfully completed. If the cold treatment has not been successfully completed, the shipment will be held until appropriate remedial actions have been implemented.

(h) *Port of entry sampling.* Clementines imported from Spain are subject to inspection by an inspector at the port of entry into the United States. At the port of first arrival, an inspector will sample and cut clementines from each shipment to detect pest infestation according to sampling rates determined by the Administrator. If a single live Mediterranean fruit fly in any stage of development is found, the shipment will be held until

an investigation is completed and appropriate remedial actions have been implemented.

(i) *Limited distribution.* For the 2002-2003 shipping season, clementines from Spain may not be imported into, or distributed within, the following U.S. States and Territories: Arizona, California, Florida, Louisiana, Texas, Puerto Rico, the U.S. Virgin Islands, the Northern Mariana Islands, Guam, or American Samoa.

(j) *Suspension of program.* If APHIS determines at any time that the safeguards contained in this section are not protecting against the introduction of Medflies into the United States, APHIS may suspend the importation of clementines and conduct an investigation into the cause of the deficiency.

(k) *Definitions.*

Lot. A number of units of clementines that are from a common origin (*i.e.*, a single producer or a homogenous production unit¹²).

Orchard. A plot on which clementines are grown that is separately registered in the Spanish Medfly management program.

Shipment. (1) *Untreated fruit.* For untreated fruit, the term means one or more lots (containing no more than a combined total of 200,000 boxes of clementines) that are presented to an APHIS inspector for pre-treatment inspection.

(2) *Treated fruit.* For treated fruit, the term means one or more lots of clementines that are imported into the United States on the same conveyance.

Shipping season. For the purposes of this section, a shipping season is considered to include the period beginning approximately in mid-September and ending approximately in late February of the next calendar year.

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¹²A homogeneous production unit is a group of adjacent orchards in Spain that are owned by one or more growers who follow a homogenous production system under the same technical guidance.

§ 319.56-2kk Persimmons from the Republic of Korea.

Persimmons (fruit) (*Disopyros khaki*) may be imported into the United States from the Republic of Korea only under the following conditions:

(a) The production site, which is an orchard, where the persimmons are grown must have been inspected at least once during the growing season and before harvest for the following pests: *Conogethes punctiferalis*, *Planococcus kraunhiae*, *Stathmopoda masinissa*, and *Tenuipalpus zhizhilashivilliae*;

(b) After harvest, the persimmons must be inspected by the Republic of Korea's national plant protection organization (NPPO) and found free of the pests listed in paragraph (a) of this section before the persimmons may be shipped to the United States;

(c) Each shipment of persimmons must be accompanied by a phytosanitary certificate issued by the Republic of Korea's NPPO stating that the fruit is free of *Conogethes punctiferalis*, *Planococcus kraunhiae*, *Stathmopoda masinissa*, and *Tenuipalpus zhizhilashivilliae*.

(d) If any of the pests listed in paragraph (a) of this section are detected in an orchard, exports from that orchard will be canceled until the source of infestation is determined and the infestation is eradicated.

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[68 FR 37922, June 25, 2003]

§ 319.56-2II Conditions governing the entry of grapes from the Republic of Korea.

Grapes (*Vitis* spp.) may be imported into the United States from the Republic of Korea under the following conditions:

(a) The fields where the grapes are grown must be inspected during the growing season by the Republic of Korea's national plant protection organization (NPPO). The NPPO will inspect 250 grapevines per hectare, inspecting leaves, stems, and fruit of the vines.

(b) If evidence of *Conogethes punctiferalis*, *Eupoecilia ambiguella*, *Sparganothis pilleriana*, *Stathmopoda*